

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RAUL SANCHEZ, SANDRA MARIE MARINO,
AND ISABELLA SANCHEZ, by her next friend,

Plaintiffs,

v.

Case No.: 13-cv-10778

BANK OF AMERICA, NA, successor in interest
by merger to BAC HOME LOANS SERVICING,
L.P., fka COUNTRYWIDE HOME LOANS
SERVICING L.P.,

Honorable Sean F. Cox
United States District Court Judge

Defendant.

OPINION AND ORDER

**ACCEPTING AND ADOPTING REPORT & RECOMMENDATION [DOCKET ENTRY
NO. 8]**

On or around January 22, 2013, Raul Sanchez, Sandra Maria Marino, and Isabella Sanchez (“Plaintiffs”) filed the Complaint, naming Bank of America, N.A. (“BOA”) as a Defendant. (Docket Entry No. 1-2.) The Complaint alleges (1) Illegal Lockout and (2) Negligent Infliction of Emotional Distress, as a result of BOA causing “the court bailiffs to evict Plaintiffs from their home by entering the premises and violently and recklessly, without due care, removing Plaintiff’s personal property from the home” even though the underlying eviction action in this mortgage foreclosure case was stayed pending the Plaintiffs’ appeal of the Judgment of Possession. (*Id.* at 4–8.)

On February 25, 2013, this action was removed to this Court on the basis of diversity jurisdiction. (Docket Entry No. 1.)

On March 4, 2013, the BOA filed its Motion to Dismiss, asserting that Plaintiffs’ have failed

to adequately allege a claim for illegal lockout and emotional distress. (Docket Entry No. 3, at 1.)

On March 7, 2013, BOA's Motion to Dismiss was referred to Magistrate Judge David R. Grand. (Docket Entry No. 4.)

On April 1, 2013, the Plaintiffs filed their response, which, among other things, requests that this Court grant them leave to amend their Complaint "to state with greater specificity their complaint for negligent infliction of emotional distress, intentional infliction of emotional distress and wrongful eviction." (Docket Entry No. 6, at 11.)

On May 22, 2013, Magistrate Judge Grand filed his Report and Recommendation ("the R&R"), recommending that the Court **GRANT** BOA's Motion to Dismiss, **DENY** the Plaintiffs' request to amend the Complaint, and **DISMISS WITH PREJUDICE** the Plaintiffs' Complaint. (Docket Entry No. 8.)

Pursuant to FED. R. CIV. P. 72(b), a party objecting to the recommended disposition of a matter by a Magistrate Judge must file objections to the R&R within fourteen (14) days after being served with a copy of the R&R.

The time for filing objections to the R&R has expired and the docket reflects that neither party has filed any objections to the R&R.

The Court finds that the issues have been adequately presented in the parties' briefs and that oral argument would not significantly aid the decision making process. *See Local Rule 7.1(f)(2), U.S. District Court, Eastern District of Michigan.* The Court therefore orders that the motion will be decided on the briefs.

The Court hereby **ADOPTS** the May 22, 2013, R&R. For the reasons mentioned in the R&R, **IT IS ORDERED** that BOA's Motion to Dismiss [Docket Entry No. 3] is **GRANTED** and

the Plaintiff's request to amend the Complaint is **DENIED**. Accordingly, Plaintiffs' Complaint is **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: June 21, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on June 21, 2013, by electronic and/or ordinary mail.

S/Jennifer McCoy

Case Manager